IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE THE CHIEF JUSTICE MR.V.K.BALI
&
THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 4TH DECEMBER 2006 / 13TH AGRAHAYANA 1928

W.P.(C).No.17503 of 2006(S)

PETITIONER:-

A. DEVADAS,
P.W.D.CONTRACTOR,
SARASWATHI NIVAS, CUSTOMS ROAD, KOZHIKODE.

BY ADV. SRI.T.P.KELU NAMBIAR (SR.)
SRI.P.T.MOHANKUMAR
SRI.A.AHZAR

RESPONDENTS:-
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1. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY,
PUBLIC WORKS DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE REGISTRAR OF CO-OPERATIVE SOCIETIES,
OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES,
THIRUVANANTHAPURAM.

3. THE CHIEF ENGINEER, PUBLIC WORKS DEPARTMENT, R & B,
THIRUVANANTHAPURAM.

4. THE DIRECTOR OF VIGILANCE, PATTOM, THIRUVANANTHAPURAM.

5. THE DY. SUPERINTENDENT OF VIGILANCE &
ANTICORRUPTION BUREAU,
WEST HILL, KIZHIKODE.

6. CALICUT CONSTRUCTION LABOUR CONTRACT
CO-OPERATIVE SOCIETY LTD.,
KOZHIKODE-1.

7. PANAMARAM SC ST CO-OPERATIVE SOCIETY LTD., PANAMARAM,
WAYANAD DISTRICT.

8. BHARANIKKAVE LABOUR CONTRACT CO-OPERATIVE SOCIETY LTD., BHARANIKKAVE, KOLLAM.

9. KADAPPAKKADA LABOUR CONTRACT CO-OPERATIVE SOCIETY LTD., KADAPAKKADA, KOLLAM.

10. T E T C O S LTD., KOLLAM-1.

11. TALIPARAMBA TALUK LABOUR CONTRACT CO-OPERATIVE SOCIETY LTD., TALIPARAMBA, KANNUR DISTRICT.

R1 TO R5 BY GOVERNMENT PLEADER SRI.T.B.HOOD.
R6 BY ADV.SRI.M.SASINDRAN.
R8 BY ADV.SRI.BABU JOSEPH KURUVATHAZHA
ADV.SRI.K.B.HARSHA.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C).NO.17503 OF 2006-S

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1 - DATED 13.11.1997, TRUE PHOTOSTAT COPY OF THE G.O., REGARDING THE GUIDELINES FOR AWARDING CONTRACT WORKS TO CO-OPERATIVE SOCIETIES.

EXT.P2 - DATED 10.07.2005, DO - OF THE REPRESENTATION SUBMITTED TO THE CHIEF MINISTER BY THE PETITIONER & OTHERS.

EXT.P3 - DATED 20.5.2006, DO - OF THE REPRESENTATION SUBMITTED BY THE PETITIONER TO THE RESPONDENTS NOS.1 TO 3.

EXT.P4 - DATED 16.5.2006, DO- OF THE REPRESENTATION SUBMITTED BY THE PETITIONER TO THE EXECUTIVE ENGINEER, PWD ROADS DIVISION, THIRUVANANTHAPURAM.

EXT.P5 - DATED 24.6.2006, DO - OF THE REPLY FROM THE EXECUTIVE ENGINEER.

RESPONDENT'S EXHIBITS:-

EXT.R6(a) - TRUE COPY OF THE MEMBERSHIP LIST OF THE 6TH RESPONDENT SOCIETY.

EXT.R6(b) - TRUE COPY OF THE RELEVANT EXTRACT OF THE WAGE REGISTER SHOWING PAYMENT OF WAGES TO THE WORKERS.

EXT.R6(c) - TRUE COPY OF THE AUDIT CERTIFICATE OF THE YEAR 2002-2003.

EXT.R6(d) - TRUE COPY OF THE JUDGMENT IN O.P.26380/1998.

EXT.R6(e) - TRUE COPY OF THE JUDGMENT IN W.A.403 OF 2001.

- TRUE COPY -

V.K.Bali,C.J. & S.Siri Jagan,J.

W.P.(C).No.17503 of 2006-S

Dated, this the 4th day of December, 2006

JUDGMENT

V.K.Bali,C.J. (Oral)

The petitioner, who is a P.W.D. Contractor engaged in taking up and executing bitumen transportation contract works, has filed this petition under Article 226 of the Constitution of India seeking a writ in the nature of mandamus directing respondents 1 to 4 to conduct a free and fair enquiry into the allegations disclosed by Exhibit P2 representation through the Vigilance officials attached to 2nd or 3rd respondents and to initiate appropriate effective steps to identify and disqualify bogus Co-operative Societies from getting contract works from Public Works Department and a further direction to the 1st respondent to frame appropriate Rules or guidelines with adequate precautionary measures to ward off possibility of misusing the contract works awarded to Co-operative Societies and incorporated bodies.

2. Pursuant to notice issued by this Court, respondents 4 and 5 have filed a statement, paragraph 2 whereof reads as follows:

> "In this context it is respectfully submitted that a confidential enquiry is conducted by the Vigilance & Anti Corruption Bureau, Kozhikode and report is submitted to the Government on 5.4.2006 for sanction to conduct a detailed Vigilance enquiry in this matter. The above sanction is to be granted by the Government to the Vigilance & Anti Corruption Bureau. The above facts are submitted for the kind consideration of this Hon'ble Court".

3. In view of the reply statement filed by respondents 4 and 5, learned Senior Counsel for the petitioner says that at this stage the Court may only direct the Government to grant permission to conduct a detailed Vigilance enquiry in the matter. There cannot be any objection to the only prayer made by the learned counsel for the petitioner. Once, respondents 4 and 5 have made a preliminary enquiry and sought permission from the Government to have a detailed Vigilance enquiry, the

Government, in such circumstances, has to grant permission/sanction. In view of the circumstances as mentioned above and in particular the statement filed by respondents 4 and 5, the Court closes the matter by only directing the Government to grant permission/sanction for holding a detailed Vigilance enquiry as expeditiously as possible, at any rate, within a period of four weeks from today.

Disposed of accordingly.

V.K.Bali
Chief Justice

S.Siri Jagan
Judge

vku/-